

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LUCY MCKERNON,

CASE NO. 1:20-CV-00032

Plaintiff,

-vs-

JUDGE PAMELA A. BARKER

CITY OF SEVEN HILLS, et al.,

Defendants.

**MEMORANDUM OF OPINION AND
ORDER**

On November 23, 2020, Plaintiff filed an Amended Complaint naming the State of Ohio as a new-party defendant. (Doc. No. 19.) On March 4, 2021, because it had been more than ninety days since the filing of Plaintiff's Amended Complaint with no indication in the record that Plaintiff had perfected service on the State of Ohio as required by the Federal Rules of Civil Procedure, the Court issued a Show Cause Order informing Plaintiff that unless good cause was shown for failure to serve the State of Ohio as provided under the Rules, the State of Ohio would be dismissed without prejudice on March 19, 2021. (Doc. No. 24.) Plaintiff has failed to respond to the Court's Show Cause Order.

Once a plaintiff has commenced an action in the federal courts, the plaintiff bears the burden to obtain service of process upon each defendant. To effectuate service upon a defendant, the Civil Rules require the plaintiff to act in a reasonable and diligent manner. Specifically, Rule 4(m) of the Federal Rules of Civil Procedure provides:

(m) Time Limit for Service. If a defendant is not served within 90 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a notice under Rule 71.1(d)(3)(A).

Plaintiff has neither responded to the Court's Show Cause Order nor provided proof of service upon the State of Ohio. Thus, after the Court provided notice of the potential for dismissal and allowed Plaintiff time to respond, Plaintiff failed to establish good cause for failing to perfect service upon the State of Ohio in accordance with the time limit set forth in Rule 4(m). *See Noco Co. v. Simpson*, No. 1:19-cv-693, 2020 U.S. Dist. LEXIS 184175, at *2 (N.D. Ohio Oct. 5, 2020). Accordingly, Plaintiff's Amended Complaint against the State of Ohio is dismissed without prejudice.

IT IS SO ORDERED.

Date: March 19, 2021

s/Pamela A. Barker
PAMELA A. BARKER
U. S. DISTRICT JUDGE